

**FINAL REPORT
OF THE
WATER RESOURCES
STUDY COMMITTEE**



**Indiana Legislative Services Agency
200 W. Washington St., Suite 301
Indianapolis, Indiana 46204-2789**

November 2010

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Water Resources Study Committee

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FINAL REPORT

Water Resources Study Committee

I. STATUTORY DIRECTIVE

The Indiana General Assembly enacted legislation (IC 2-5-25-5) directing the Water Resources Study Committee (WRSC) to study and may make recommendations concerning all matters relating to the surface and ground water resources of Indiana, including the following:

- (1) The usage, quality, and quantity of water resources.
- (2) Issues concerning diffused surface water, the common enemy doctrine of law, and runoff.

IC 14-25-14-2 requires the Water Resources Task Force (WRTF) to report each year to the WRSC.

The Legislative Council did not assign topics to the 2010 Water Resources Study Committee.

II. INTRODUCTION AND REASONS FOR STUDY

The Committee met to receive the Department of Natural Resources' annual progress report on the work of the WRTF and to study other issues concerning the usage of water resources in Indiana.

III. SUMMARY OF WORK PROGRAM

The WRSC met three times during the 2010 interim. At the first meeting, held on August 26, 2010, the WRSC discussed issues pertaining to the removal of sand and gravel from creek beds; dedicated funding for conservation; and conservancy district expenses. At the second meeting, held on September 30, 2010, the WRSC discussed drainage issues and the Common Enemy Doctrine and heard testimony pertaining to the projected lack of water resources. At the final meeting, the WRSC considered recommendations and voted on the final report.

IV. SUMMARY OF TESTIMONY

Removal of Sand and Gravel from Creek Beds. Patty Geyman, Jefferson County, believed that the rules governing gravel and debris removal are unduly restrictive on landowners who own creekside property. Representatives of the Department of Natural Resources (DNR) provided an overview of the history and development of the law that governs removal of sand and gravel from a floodway. DNR rules limit the amount of creek rock that can be removed from the floodway because the removal of material from the creek could flood other people's property, result in habitat loss, impact fisheries, destabilize the stream and bank, and result in downstream flooding. Removal of creek rock could change the course of the creek and increase the flow of the creek.

Paul Ogden, an attorney, and Paul Buchanan, a citizen who hauls gravel from creek beds for commercial purposes, indicated that obstructions could increase flooding in surrounding areas. Bob Kraft, Indiana Farm Bureau (IFB), stated that gravel and debris removal from streams is an ongoing concern. Ron McAhron, DNR, explained that the DNR plans to change its existing rule, in which the amount of gravel that can be removed is based on parcels of land, to one in which the amount that can be removed would be based on the linear feet of stream owned.

Dedicated Funding for Conservation. Jennifer Boyle, Executive Director of the Indiana Association of Soil and Water Conservation Districts, provided information about surrounding states' natural resources conservation funding and noted that a diverse group of Indiana conservation organizations encourages the legislature to study funding mechanisms for conservation purposes. She explained that a needs assessment is necessary.

Ray Chatten, Knox County Soil and Water Conservation District and Master Farm Conservationist, explained that for the past 60 years Indiana has witnessed soil loss in excess of 100 million tons. In addition, the use of commercial fertilizer has been essentially unrestricted. Recent occurrences of phosphate pollution and blue-green algae in Geist Reservoir and the potential danger that toxins associated with these organisms can pose are alarming. In Indiana, more money will have been spent on a football stadium than on the Clean Water Indiana Program for the entire century if nothing changes. He supports the creation of a sustainable natural resource funding advisory committee.

Glenn Pratt, Sierra Club, stated that the Sierra Club shares the goals of the group seeking dedicated funding.

Lynn Dennis, The Nature Conservancy, proposed that Indiana create a new Sustainable Resources Funding Advisory Committee similar to what Iowa did in 2006. The advisory committee would be charged with the following responsibilities:

- Collect data regarding natural resource protection programs, funding, and funding mechanisms in other states.
- Collect programmatic and funding data on current natural resource protection programs in Indiana.
- Explore options for creating a conservation funding mechanism.
- Determine the natural resource needs in Indiana and what would be accomplished if the conservation funding initiative were implemented.
- Complete an analysis of Indiana citizens' willingness to pay for such an initiative.

The Chair explained that one option would be to set up a task force made up of various conservation organizations to examine funding mechanisms and to carry out an assessment of conservation needs in Indiana.

Justin Schneider, IFB, did not object to the task force. Chris Smith, DNR, stated that being an advisor to the task force would probably not place a financial burden on the

agency. Ms. Dennis stressed the necessity of performing a needs assessment.

Conservancy District Expenses. Alan Hux, Association of Indiana Conservancy Districts, explained that IC 14-33-2-20 requires conservancy districts to reimburse DNR for certain fees. DNR has not sought reimbursement in the past. Mr. McAhron stated that when the DNR discovered that it had not been collecting the fee as required, the DNR developed a nonrule document. Mr. McAhron stated that DNR may be able to request the Natural Resources Commission to stay the implementation of the document pending the next legislative session, during which the section may be amended. Dick Thompson stated that a newly created conservancy district should not be hampered by additional fees.

Drainage Issues. Bob and Sarah Clapp, citizens, explained the difficulties they have had trying to get help from various governmental agencies at the state and local level with flooding problems caused by a neighbor. Because their home is within two miles of the city, they were told by county officials to take the matter to the city officials. The city declined to intervene. The Clapps seek a solution where clear authority is given to an official or governmental agency to help in these matters.

Representative Milo Smith stated that he has had multiple constituents who have faced similar situations. He would like for the county surveyor to be given the authority to devise an appropriate solution and offered PD 3475 for consideration.

Rhonda Cook and Jodi Wood, Association of Cities and Towns, had concerns with creating a solution that creates more government and more expense to the taxpayers.

Rick Wajda, Indiana Home Builders Association, stated that Rep. Smith's original bill (HB 1201-2010) would have abrogated the common law rule of the Common Enemy Doctrine. Mr. Kraft, IFB, stated that there are no easy solutions. Mark Thornburg, IFB, clarified the distinction between diffused surface water and channelized water.

Water Resources and Demand. Art K. Umble, Ph.D., P.E., BCEE, Director of Process Engineering, Greeley and Hansen LLC, Indianapolis, detailed the quality and quantity of the freshwater supply and the gaps in global demand. In the next twenty years the world's demand for water will double. The demand in North America will increase 43% over the next two decades. Dr. Umble talked about the embedded cost of water in the cost of the production of goods, services, and agricultural products. The concept of "virtual water" refers to the cost (or use) of local water in the preparation of goods for export. Approximately 12,000 gallons of water are needed to produce one pound of beef. Water will have more value in the future. The global water crises is now and is growing. Business-as-usual water management is not sustainable.

Glen Pratt, Sierra Club, stated the Sierra Club has worked with groups to develop drought plans. Dr. Umble's presentation is more evidence of the pressing need to look into the water resource issue.

Water Resources Task Force. Mr. McAhrn, DNR, presented a status report of the Task Force. The Task Force met for the first time on August 27, 2010. The report contains the names of the members and minutes from their first meeting.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee made the following recommendations:

Removal of Sand and Gravel from Creek Beds. By voice vote, the Committee acknowledged that DNR is working on a rule change in response to concerns raised in the Committee.

Dedicated Funding for Conservation. By voice vote, the Committee approved the concept of a needs assessment for mechanisms for conservation funding in Indiana, with members of the assessment group to serve without per diem.

Conservancy District Expenses. By voice vote, the Committee approved a motion to amend IC 14-33-2-20 by striking the last two sentences, removing DNR's authority to recover expenses.

Drainage Issues. Rep. Milo Smith presented PD 3475. By voice vote, the Committee approved PD 3475 for introduction.

Final Report. The final report was approved by voice vote.

WITNESS LIST

Jennifer Boyle, Executive Director, Indiana Association of Soil and Water Conservation Districts
Paul Buchanan, Citizen
Ray Chattin, Knox County Soil and Water Conservation District and Master Farm Conservationist
Sarah and Bob Clapp, Citizens
Rhonda Cook, Association of Cities and Towns
Lynn Dennis, The Nature Conservancy
Patty Geyman, Citizen, Jefferson County
Alan Hux, Association of Indiana Conservancy Districts
Bob Kraft, IFB
Ron McAhrn, Deputy Director, Indiana Department of Natural Resources
Paul Ogden, Attorney
Glenn Pratt, Sierra Club
The Honorable Milo Smith, State Representative
Dick Thompson, Citizen
Mark Thornburg, IFB
Art K. Umble, Ph.D., P.E., BCEE, Director of Process Engineering, Greeley and Hansen LLC, Indianapolis
Rick Wajda, Indiana Home Builders Association
Jodi Wood, Association of Cities and Towns